

REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed August 7, 2006. By the present amendment, the Applicant has amended claims 1, 3, 5, and 7. It is respectfully submitted that the claims pending in the application, namely claims 1-10 and 12-15, do not introduce new subject matter, are fully supported by the application, and are patentable over the prior art. Prompt and favorable consideration of these claims is earnestly sought.

The Office Action rejected claims 1-15 under 35 U.S.C. § 103 (a) as being anticipated by U.S. Patent No. 5,591,183 to Chin (the '183 patent) in view of U.S. Patent No. 5,423,842 to Michelson (the '842 patent). According to the Office Action, the '183 patent discloses a method including providing a long slender rod having a handle wherein a first sideways hook is located on the distal end and a second sideways hook extends from the rod in an opposing direction from the first sideways hook, manipulating the rod to slide the sideways hooks around the artery, and pushing and/or pulling the rod to slide along the artery until the artery is separated from the surrounding tissue. As acknowledged in the Office Action, the '183 patent fails to disclose a segment of the slender rod offsetting the hook from a longitudinal axis defined by the rod. The Office Action asserted that the '842 patent discloses in Figure 1 that it is known in the surgical art to have a long slender rod with a handle on one end, a sideways hook on the other end, and a segment of the slender rod offsetting the hook from a longitudinal axis defined by the rod.

As currently amended, independent claims 1, 3, and 5 recite a method including, *inter alia*, the step of "providing an instrument having a long slender rod and a handle, the handle and the rod being substantially coaxial, a segment located at a distal end of the rod, the segment

including a sideways hook at its distal end, the segment offsetting the hook from a longitudinal axis defined by the rod and the handle," while independent claim 7 recites a method including, *inter alia*, the step of "providing a long slender rod with a handle end, a hooked end, and a segment located therebetween, the segment offsetting the hook from a longitudinal axis defined by the rod, said hooked end having a sideways extending hook near its distal tip, said handle end being substantially coaxial with the rod."

The '842 patent discloses a surgical device having an offset microknife blade 32 located at its distal end. As shown below in Figure 1, the device disclosed in the '842 patent includes an offset attachment assembly portion 14, which comprises an internally threaded member 16 for receiving the microknife member 26. As seen in Figure 1, the portion of the device connecting the microknife blade to the handle is offset from the axis defined by the handle. The '842 patent (Column 2, lines 45-54) describes the disclosed device as follows:

Referring to the FIG. 1 the microknife 10 is shown in an exploded view. The microknife 10 has a handle 12 having a generally rectangular solid configuration. At one end thereof 11 is an offset attachment assembly portion 14, which comprises an internally threaded member 16 for receiving the microknife member 26. The attachment assembly is offset from the axis of the handle so that the central axis A of the internal threaded portion is offset from the central axis B of the handle 12 by about 20-30 degrees.

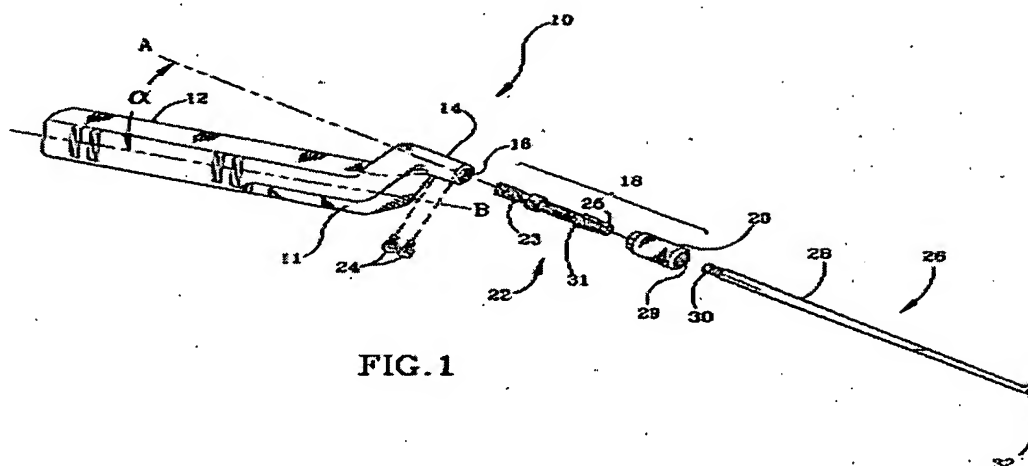


FIG. 1

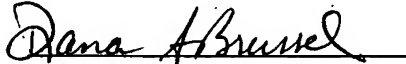
In contrast to the device disclosed in the '842 patent, independent claims 1, 3, and 5 of the present application recite a method including, *inter alia*, the step of "providing an instrument having a long slender rod and a handle, the handle and the rod being substantially coaxial, a segment located at a distal end of the rod, the segment including a sideways hook at its distal end, the segment offsetting the hook from a longitudinal axis defined by the rod and the handle," while independent claim 7 recites a method including, *inter alia*, the step of "providing a long slender rod with a handle end, a hooked end, and a segment located therebetween, the segment offsetting the hook from a longitudinal axis defined by the rod, said hooked end having a sideways extending hook near its distal tip, said handle end being substantially coaxial with the rod." Nowhere does the '842 patent disclose or suggest an instrument having a long slender rod and a handle, wherein the handle and the rod are substantially coaxial. In fact, the long slender rod 10 of the '842 patent is offset from the axis of the handle 12 to "allow unobstructed visualization of the cutting portion of the blade when operating..." (the '842 patent, Col. 2, lines 3-5).

Appl. No. 10/790,374
Amdt. dated November 8, 2006
Reply to Office Action mailed August 7, 2006

Therefore, for at least the reasons discussed hereinabove, it is respectfully submitted that amended claims 1, 3, 5, and 7 are not suggested by the '183 patent in view of the '842 patent and are in condition for allowance. Because claims 2, 4, 6, 8-10, and 12-15 depend from, and, therefore include all the limitations of their corresponding base claims, it is respectfully submitted that these claims are also in condition for allowance.

Prompt and favorable action on these claims is earnestly requested. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,


Dana A. Brussel
Reg. No. 45,717
Attorney for Applicants

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747
Tel.: (631) 501-5713
Fax: (631) 501-3526

Send correspondence to:
Chief Patent Counsel
United States Surgical,
a Division of Tyco Healthcare Group LP
195 McDermott Road
North Haven, CT 06473